

AO 91 (Rev. 08/09) Criminal Complaint

United States District Court
Southern District of Texas
FILED

UNITED STATES DISTRICT COURT

for the

Southern District of Texas

JUN 19 2017

Clerk of Court

United States of America)

Abel HERNANDEZ Jr., YOB: 1972, COC: US)
Raul PENA-Sanchez Jr., YOB: 1990, COC: US)

Case No. M-17-1083-M)

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of June 18, 2017 in the county of Hidalgo in the
Southern District of Texas, the defendant(s) violated:

Code Section

18 United States Code § 554

Offense Description

Did knowingly and willfully conspired, aided and abetted, to export or send from the United States, any merchandise, article, or object, to wit: approximately 2,080 rounds of 7.62X39mm caliber ammunition, contrary to any law or regulation of the United States, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of such merchandise, article or object, prior to exportation, knowing the same to be intended for exportation contrary to any law or regulation of the United States.

This criminal complaint is based on these facts:

SEE ATTACHMENT "A"

✓ Continued on the attached sheet.

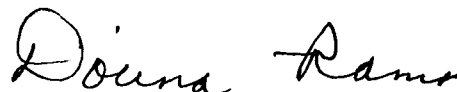
Approved,
Raul Pena Sanchez
Agent

Complainant's signature

Gerardo Mercado, HSI Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: 6/19/2017City and state: McAllen, Texas

Judge's signature

Dorina Ramos, U.S. Magistrate Judge

Printed name and title

ATTACHMENT A

- I. On June 18, 2017, U.S. Homeland Security Investigations McAllen, Texas (HSI McAllen) Special Agents (SAs) received information regarding an individual, later identified as Abel HERNANDEZ Jr., who had made a significant purchase of ammunition at a sporting goods store in McAllen, Texas. After arriving at the sporting goods store, Agents were able to verify that HERNANDEZ had made the significant purchase of ammunition. Agents also established surveillance of HERNANDEZ as he was leaving the store.
- II. In the parking lot, Agents observed HERNANDEZ load the ammunition into a silver Dodge Charger (SUBJECT VEHICLE 1). Agents observed that the vehicle had Mexican license plates. Agents further observed HERNANDEZ enter SUBJECT VEHICLE 1 on the passenger side. The driver of SUBJECT VEHICLE 1 was later identified as Raul PENA-Sanchez Jr.
- III. HSI Agents were able to maintain surveillance of SUBJECT VEHICLE 1 and its occupants as they drove from the sporting goods store to a parking lot near Coma Avenue and International Boulevard in Hidalgo, Texas.
- IV. At the parking lot, HSI Agents observed SUBJECT VEHICLE 1 parked next to an unoccupied red Chevrolet pickup truck with Mexican license plates (hereinafter referred to as "SUBJECT VEHICLE 2"). PENA and HERNANDEZ then exited SUBJECT VEHICLE 1 and made contact with SUBJECT VEHICLE 2. HSI Agents observed PENA and HERNANDEZ

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open the hood and load several boxes of suspected ammunition into the engine compartment area of SUBJECT VEHICLE 2.

- V. Upon loading the boxes into SUBJECT VEHICLE 2, HSI Agents observed PENA enter into SUBJECT VEHICLE 1 and HERNANDEZ enter into SUBJECT VEHICLE 2. HSI Agents then observed and followed SUBJECT VEHICLE 1 and SUBJECT VEHICLE 2 drive southbound in tandem onto International Boulevard towards the Hidalgo, Texas Port of Entry (HID POE).
- VI. HSI Agents advised U.S. Customs and Border Protection Officers (CBPOs) from the HID POE of their aforementioned observations and activities related to SUBJECT VEHICLE 1, SUBJECT VEHICLE 2, PENA, and HERNANDEZ. HSI Agents followed SUBJECT VEHICLE 1 and SUBJECT VEHICLE 2 to the HID POE.
- VII. At the HID POE, CBPOs interdicted and stopped SUBJECT VEHICLE 1 as it attempted to exit the United States into Mexico in order to conduct an outbound inspection. As SUBJECT VEHICLE 2 approached SUBJECT VEHICLE 1's location, CBPOs attempted to stop SUBJECT VEHICLE 2 to conduct an outbound inspection. HERNANDEZ driving SUBJECT VEHICLE 2 reacted by conducting an abrupt right turn across traffic lanes onto a side street in order to evade the CBPOs.

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- VIII. HSI Agents were able to follow SUBJECT VEHICLE 2 to a restaurant a few blocks from the HID POE. HSI Agents and other law enforcement officers proceeded to stop and detain HERNANDEZ as he exited SUBJECT VEHICLE 2. Both HERNANDEZ and PENA were detained and secured at the HID POE.
- IX. HSI Agents conducted a post-Miranda custodial interview of HERNANDEZ at the HID POE. During the interview, HERNANDEZ admitted that on June 18, 2017, he with PENA's assistance purchased approximately 2,080 rounds of 7.62X39mm caliber ammunition from a sporting goods store in McAllen, Texas. HERNANDEZ claimed he purchased the ammunition on behalf of a co-conspirator allegedly involved in drug trafficking and criminal activity in Mexico and the United States. HERNANDEZ admitted he was aware it's illegal to smuggle ammunition from the United States into Mexico, but claimed he did not intend to smuggle the ammunition into Mexico. HERNANDEZ was unable to provide HSI Agents a reasonable explanation for concealing the ammunition under the hood of SUBJECT VEHICLE 2.
- X. HSI Agents searched SUBJECT VEHICLE 2 and discovered three (3) boxes/tins containing approximately 2,040 rounds of 7.62X39mm caliber ammunition concealed within the engine compartment area of SUBJECT

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VEHICLE 2. HSI Agents discovered that the ammunition boxes within SUBJECT VEHICLE 2 were placed and supported on top of an aftermarket metal bracket which appeared to have been specifically designed to hold and secure the ammunition boxes. HSI Agents also discovered that HERNANDEZ was in possession of approximately 40 rounds of 7.62X39mm caliber ammunition in his pant pockets.

- XI. According to the U.S. Department of State, Office of Defense Trade Controls Compliance (DTCC), ammunition is determined to be a defense article described on the United States Munitions List (USML) and regulated for export pursuant to the Arms Export Control Act (22 U.S.C. 2778). The 7.62x39mm ammunition is covered under Category III (a) on the USML.